

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

UNIWORLD STEEL, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1623

Decision No. CU- 5961

Counsel for claimant:

Leo Realberg, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by UNIWORLD STEEL, INC. in the amount of \$250,000.00 based upon a stockholder interest in the Cuban corporation known as Hierromat Cubana, S.A.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

An officer of the claimant corporation has certified that the claimant was organized in the State of New York, that at all times pertinent hereto more than 50% of its outstanding capital stock was owned by United States nationals and that all of the outstanding capital stock was owned by a United States national on April 7, 1967. The Commission holds that the claimant, UNIWORLD STEEL, INC. (formerly known as Transcontinental Steel, Inc.), is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The claim is made for the loss of claimant's stockholder interest in the corporation Hierromat Cubana, S.A., incorporated under the laws of Cuba.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to June, 1960, has been the owner of 525 shares of Hierromat Cubana, S.A. stock.

On January 29, 1963, the Government of Cuba published Resolution No. 4 in its official gazette, Gaceta Oficial, which listed Hierromat Cubana, S.A. as nationalized pursuant to Law 851 of July 6, 1960. Accordingly, the Commission finds that Hierromat Cubano, S.A. was taken on January 29, 1963.

As a corporation organized under the laws of Cuba, Hierromat Cubana, S.A. does not qualify as a national of the United States defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to

the extent of 50 per cent in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The authorized capital of Hierromat was 2,000 shares of common stock having a par value of 100.00 pesos of which 1,500 shares were outstanding.

Claimant asserts a loss of approximately \$250,000 in connection with its 35 per cent interest in Hierromat. In this respect it refers to its letter to the State Department of February 17, 1964 in which it referred to Hierromat's investments of \$78,000 in Aceros Unidos de Cuba, S.A.; a participation of \$25,000 in Antillana de Aceros, S.A.; a participation interest of \$3,000 in a real estate property, Urbanizadora Cazananas, S.A.; asserted debts to Hierromat of \$12,222.29 due from Constructora Metropolitana and \$15,930.98 due from Inmobiliaria Metro; bank deposits of \$64,723.08; a new warehouse valued at \$152,000. On the basis of the foregoing claimant estimated the value of Hierromat at the end of June, 1961 as between \$600,000 and \$700,000 and thus concluded its interest had the asserted value of \$250,000.

In support of the asserted value claimant submitted photographs of the warehouse owned by Hierromat Cubana, S.A., at Calle Octava and Avenida Popular in Reparto Este de Vista Allegra, Guanabacoa, Cuba, and financial statements indicating the financial status of the same corporation as of December 31, 1959, June 30, 1960 and June 30, 1961; and affidavits.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

In its Annual Report for the year ended June 30, 1961, Hierromat Cubana, S.A. included a balance sheet listing its assets and liabilities as follows:

<u>Assets</u>			
<u>Current Assets</u>			
Cash on hand and in banks			\$ 64,723.08
Accounts receivable			
Clients	\$11,021.41		
Miscellaneous	<u>33,239.44</u>		44,260.85
Inventory of stock in trade			<u>25,759.64</u>
			\$134,743.57
<u>Total Current Assets</u>			
<u>Fixed Assets</u>			
	<u>Cost</u>	<u>Reserve</u>	<u>Net Value</u>
Buildings	\$127,648.68	\$ -	\$127,648.68
Lands	20,497.65	-	20,497.65
Cranes	9,267.40	-	9,267.40
Furniture & furnishings	6,665.35	3,680.43	2,984.92
Motor vehicles	<u>11,487.50</u>	<u>3,828.57</u>	<u>7,658.93</u>
			168,057.58
			108,300.00
<u>Investments</u>			
<u>Deferred Charges</u>			
Unamortized organizational expenses			\$ 805.57
Charges paid in advance			2,119.40
Security deposits			<u>120.00</u>
			<u>3,044.97</u>
			\$414,146.12
			<u><u>Total Assets</u></u>

Liabilities

Current Liabilities

Accounts payable			
Dividends	\$ 35,250.00		
Miscellaneous	<u>80,149.95</u>	\$115,399.95	
Expenses and taxes		<u>791.03</u>	
<u>Total Current Liabilities</u>			\$116,190.98

Capital

Capital in stock

Authorized	\$200,000.00		
Not issued	<u>50,000.00</u>		
<u>Total capital issued</u>		\$150,000.00	

Surplus

Balance on July 1, 1960	\$171,250.67		
Adjustments from previous years	( 5,098.53)		
Loss	<u>(18,197.00)</u>	\$147,955.14	
<u>Total of the Capital</u>			<u>\$297,955.14</u>

Total Liabilities and Capital \$414,146.12

It is noted that whereas the debts of Constructora and Inm. Metro were as asserted in 1959, the schedules to the 1961 balance sheet reflect these debts in the reduced amounts of \$319.27 and \$2,638.48.

Nevertheless, Constructora and Inm. Metro were confiscated by the Government of Cuba on August 29, 1960, pursuant to Law 715. The pertinent schedule to the Hierromat balance sheet of June 30, 1960 shows their debts as \$319.27 and \$4,756.48, respectively. Accordingly, the Commission finds that when Hierromat was taken on January 28, 1963 the debt from Inm. Metro exceeded that shown on the June 30, 1961 balance sheet by \$2,118.00.

The Commission has carefully considered all of the evidence, taking into account the basis of valuation most appropriate to the property and equitable to the claimant, and finds that the values most appropriate for the subject properties are reflected in the balance sheet of June 30, 1961, the nearest to the date of taking, with adjustments based upon evidence available to the Commission concerning the items of investment.

The balance sheet of June 30, 1961, lists investments in the total amount of 108,300.00 pesos. In the report, accompanying the balance sheet, the investments are identified as follows:

23 shares of Ferrocarriles Occidentales de Cuba, S.A., stock, each with par value of 100.00 pesos	2,300.00 pesos
250 shares of Cia. Antillana de Aceros, S.A., stock, each with par value of 100.00 pesos	25,000.00 "
30 shares of Cia. Urbanizadora Casanas, S.A., stock, each with par value of 100.00 pesos	3,000.00 "
780 shares of Aceros Unidos de Cuba, S.A., stock	<u>78,000.00</u> "
	108,300.00 pesos

The Commission has previously determined that investments in Ferrocarriles should be allowed at cost (see Claim of Ruth Anna Haskew, Claim No. CU-0849); that Antillana was intervened on March 25, 1960 and each share had a value of \$100 (see Claim of Independence Foundation, Claim No. CU-2152); that Aceros Unidos was taken on June 29, 1961, when each share had a value of \$114.9039 (see Claim of Albert Rode, Claim No. CU-3039). Accordingly, the value of Hierromat's investment of 780 shares in Aceros Unidos should be increased by \$11,625.04. In the absence of evidence of any greater value, the Commission finds that its interest in Urbanizadora Casanas had a value of \$3,000.00.

Therefore, the Commission finds the net worth of Hierromat as follows:

June 30, 1961 Balance Sheet	\$297,955.14
Excess value of Aceros Unidos	11,625.04
Excess debt of Inm. Metro	<u>2,118.00</u>
Total	\$311,698.18

Accordingly, the claimant's 35% interest in Hierromat on January 29, 1963 had a value of \$109,094.36 within the scope of Title V of the Act.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per

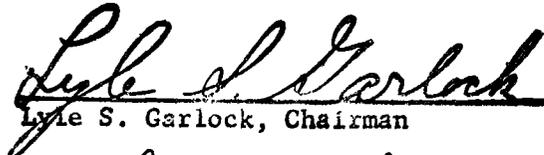
annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

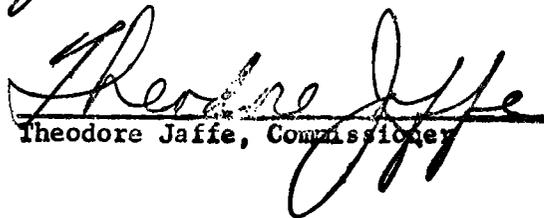
CERTIFICATION OF LOSS

The Commission certifies that UNIWORLD STEEL, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Nine Thousand Ninety-four Dollars and Thirty-six Cents (\$109,094.36) with interest at 6% per annum from January 29, 1963 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

NOV 17 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §1.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)